STATUTORY INSTRUMENTS

2016 No. 199

SOCIAL SECURITY PENSIONS

The State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016

Made - - - - 22nd February 2016
Coming into force in accordance with regulation 1(2) to (4)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 24B(5) and 181(1) of the Pension Schemes Act 1993(**1**) and sections 10, 18(2), (3) and (4), 20, 22(1) and 54(5) and (6) of the Pensions Act 2014(**2**).

In relation to regulation 6, the Secretary of State has consulted such persons as the Secretary of State considers appropriate, in accordance with section 185(1) of the Pension Schemes Act 1993(**3**).

The remainder of these Regulations have not been referred to the Social Security Advisory Committee because they are made before the end of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2014 under which they are made(**4**).

A draft of these Regulations has been laid before Parliament in accordance with section 186(3)(a) of the Pension Schemes Act 1993(**5**) and section 54(2)(a) and (b) of the Pensions Act 2014 and approved by resolution of each House of Parliament.

(**1**) 1993 c.48
. Section 24B was inserted by section 14(3) of the Pensions Act 2007 (c.22)
and section 181(1) is cited for the meaning it gives to "prescribed" and "regulations".

(**2**) 2014 c.19
. Section 22(1) is cited for the meaning it gives to "regulations".

(**3**) Relevant amendments to section 185(1) were made by paragraph 46 of Schedule 3 to, and paragraph 80 of Schedule 5 to, and Part I of Schedule 7 to, the Pensions Act 1995 (c.26)
.

(**4**) *See* section 173(5) of the Social Security Administration Act 1992 (c.5)
.

(**5**) Section 186(3) was amended by section 14(12) of the Pensions Act 2007.

Citation, commencement and application

1.—(1) These Regulations may be cited as the State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016.

(2) This regulation and regulation 6(2) come into force 21 days after the day on which these Regulations are made.

(3) Regulation 6(1) and (3) comes into force on 6th April 2016.

(4) The remainder of these Regulations come into force on 6th April 2016, immediately after the State Pension Regulations 2015(**6**).

(5) These Regulations, except regulation 6, do not apply to a person who reaches pensionable age (within the meaning in section 22(1) of the Pensions Act 2014 (general definitions etc)) before 6th April 2016.

Amendment of the State Pension Regulations 2015

2. For regulation 1(4) of the State Pension Regulations 2015 (interpretation), substitute—

"(4) In these Regulations—

"the 1965 Act" means the National Insurance Act 1965(**7**);

"the 2014 Act" means the Pensions Act 2014;

"deferral period" means the period during which a person's entitlement to a state pension under Part 1 of the 2014 Act is deferred;

"graduated retirement benefit" means any benefit under section 36 (graduated retirement benefit) or 37 (special provisions as to graduated retirement benefit for widows) of the 1965 Act(**8**).".

3. In Part 3 of the State Pension Regulations 2015, after regulation 12 (part weeks treated as whole weeks in determining the amount of entitlement during deferral) insert—

"**Modification of the amount of an increment for other cases during deferral**

12A.—(1) Subject to regulation 23, this regulation applies in cases where, at any time in the deferral period, the weekly rate of the person's state pension, had the person's entitlement not been deferred, would have changed otherwise than because of an up-rating increase ("a non-uprating change").

(2) Section 17(4) of the 2014 Act (amount of an increment for pensioner postponing or suspending state pension) is modified to provide that the amount of an increment for each modification period is equal to a percentage specified in regulations of the weekly rate of the state pension to which the person, if their entitlement had not been deferred, would have been entitled immediately before the end of the modification period.

(3) The first modification period begins at the start of the deferral period and ends immediately before the date of the first or only non-uprating change.

(**6**) S.I. 2015/173
.

(**7**) 1965 c.51
.

(**8**) Sections 36 and 37 were repealed by Schedule 28 to the Social Security Act 1973 (c.38)
but continue in force by virtue of
S.I. 1978/393
.

(4) Further modification periods begin on the date of the most recent or only non-uprating change and end—

(a) immediately before the end of the deferral period, where there is no subsequent non-uprating change; or

(b) immediately before the date of the subsequent non-uprating change, where there is a subsequent non-uprating change.".

4. After Part 5 of the State Pension Regulations 2015, insert—

"PART 6

Graduated Retirement Benefit

Survivor's state pension based on inheritance of graduated retirement benefit

15.—(1) A person whose dead spouse or civil partner paid graduated contributions as an insured person is entitled to a state pension in accordance with this regulation.

(2) Such a person is entitled to a state pension if—

(a) that person has reached pensionable age;

(b) that person's spouse died while they were married or that person's civil partner died while they were civil partners of each other;

(c) the marriage took place, or the civil partnership was formed, before 6th April 2016; and

(d) that person is entitled to an inherited amount under regulation 16(1), (2) or (3).

(3) A state pension under this regulation is payable at a weekly rate equal to the inherited amount determined in accordance with regulation 16(4) to (6).

(4) The rate of the state pension for a person under this regulation is to be increased from time to time in accordance with regulation 17.

Survivor's state pension under regulation 15: inherited amount

16.—(1) For the purposes of regulation 15(2)(d), a person is entitled to an inherited amount if—

(a) their spouse or civil partner died before 6th April 2016;

(b) they were under pensionable age when their spouse or civil partner died; and

(c) they have not married or formed a civil partnership after the death and before the time they reach pensionable age.

(2) For the purposes of regulation 15(2)(d), a person is entitled to an inherited amount if—

(a) their spouse or civil partner reached pensionable age before 6th April 2016 but died on or after 6th April 2016;

(b) they were under pensionable age when their spouse or civil partner died; and

(c) they have not married or formed a civil partnership after the death and before the time they reach pensionable age.

(3) For the purposes of regulation 15(2)(d), a person is entitled to an inherited amount if—

(a) their spouse or civil partner reached pensionable age before 6th April 2016 but died on or after 6th April 2016; and

(b) they were over pensionable age when their spouse or civil partner died.

(4) The inherited amount is half of the weekly rate of the deceased spouse's or civil partner's graduated retirement benefit, determined in accordance with paragraph (5), on the date referred to in paragraph (6) (whether or not the deceased was receiving, or entitled to receive, any such benefit).

(5) The determination for the purposes of paragraph (4) is carried out by—

(a) taking the weekly rate of graduated retirement benefit appropriate to the amount of graduated contributions paid by the deceased;

(b) determining that weekly rate as if any provisions in orders under section 150 of the Administration Act (annual up-rating of benefits)(**9**) which—

(i) increase that weekly rate; and

(ii) have come into force since the date of the deceased's death,

had come into force before that date; and

(c) excluding any addition under—

(i) section 36(4) of the 1965 Act; or

(ii) section 37(1) of that Act.

(6) The date mentioned in paragraph (4) is—

(a) where the person falls within paragraph (1) or (2), the date on which the person reaches pensionable age; or

(b) where the person falls within paragraph (3), the date on which the person's spouse or civil partner died.

Survivor's state pension under regulation 15: up-rating

17.—(1) The rate of a person's state pension under regulation 15 is to be increased as follows.

(2) In this regulation, a reference to the rate of a person's state pension is to the rate—

(a) without any reduction under Regulations made under section 7(4) (survivor's pension based on inheritance of additional old state pension) of the 2014 Act (in the case of a state pension under section 7 of the 2014 Act);

(b) taking into account any reduction under section 14 (pension sharing: reduction in the sharer's section 4 pension) of the 2014 Act (in the case of a state pension under section 4 of the 2014 Act); and

(c) without any increase under section 17 of the 2014 Act.

(3) The rate of the person's state pension is increased in accordance with paragraph (4) where—

(a) that rate, when added to the sum of the rate of any state pension to which the person is entitled under section 7 and section 2, 4 or 12 of the 2014 Act

(**9**) 1992 c.5
. *See* section 22(1) of the Pensions Act 2014 for the definition of "the Administration Act". Relevant amendments were made to section 150 by section 131(2) of the Pensions Act 1995 and
S.I. 2006/2839
.

(entitlement to state pension at various rates), is equal to or less than the full rate(**10**) of the state pension; and

(b) the full rate of the state pension is increased at any time.

(4) Where paragraph (3) applies—

(a) the rate of the person's state pension is increased by the same percentage as the increase in the full rate; and

(b) that increase of the person's state pension is to be made at the same time as the increase in the full rate.

(5) The rate of the person's state pension is increased in accordance with either or both of paragraphs (6) and (7) where—

(a) both—

(i) that rate, when added to the sum of the rate of any state pension to which the person is entitled under section 7 and section 2, 4 or 12 of the 2014 Act, exceeds the full rate of the state pension; and

(ii) the sum of the rate of any state pension to which the person is entitled under section 7 and section 2, 4 or 12 of the 2014 Act is less than the full rate of the state pension; and

(b) either or both of the following occurs at any time—

(i) the full rate of the state pension is increased;

(ii) an uprating order comes into force.

(6) Where paragraph (5)(a) and (b)(i) applies, the rate of the person's state pension is increased—

(a) by an amount equal to the appropriate percentage of the shortfall immediately before the full rate of the state pension is increased ("the appropriate percentage" means the percentage by which the full rate is increased); and

(b) at the same time as paragraph (5)(b)(i) applies.

(7) Where paragraph (5)(a) and (b)(ii) applies, the rate of the person's state pension is increased—

(a) by an amount equal to the appropriate percentage of the excess immediately before the uprating order mentioned in paragraph (5)(b)(ii) comes into force ("the appropriate percentage" means the percentage specified in that uprating order); and

(b) at the same time as that uprating order comes into force.

(8) The rate of the person's state pension is increased in accordance with paragraph (9) where—

(a) the sum of the rate of any state pension to which the person is entitled under section 7 and section 2, 4 or 12 of the 2014 Act is equal to or higher than the full rate of the state pension; and

(b) an uprating order comes into force at any time.

(9) Where paragraph (8) applies—

(a) the rate of the person's state pension is increased by the percentage specified in the uprating order mentioned in paragraph (8)(b); and

(**10**) *See* section 22(1) of the Pensions Act 2014 for the definition of "full rate".